the government and regulation of the land and naval forces" and their decisions, like those of other military tribunals, need not be reviewable by the civil courts; and that the act involved no unconstitutional delegation of legislative or judicial powers. *United States v. Sugar* (1917, E. D. Mich.) 243 Fed. 423.

The constitutionality of the same act was upheld against certain of the same objections in an eloquent opinion by Judge Speer in *Story v. Perkins* (1917, S. D. Ga.) 243 Fed. 997, and the claim of "involuntary servitude" was disposed of in a single sentence in *Claudius v. Davie* (1917, Cal.) 165 Pac. 689. In the *Story* case the further objection was made and overruled that Congress had no power to compel service outside the United States. The decisions are interesting as current history, but the questions raised presented little novelty and less difficulty. Several cases upholding the draft act of Civil War times are cited in the principal case.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—DECISION OF STATE COURT.—In a suit to collect special assessments the defendant landowner offered evidence that he was not benefited. The evidence was refused. Consequently an intervenor (the owner of bonds payable from the tax) offered no evidence to rebut that which had been rejected. When judgment favorable to the intervenor was reversed by the state Supreme Court without remanding, the intervenor claimed a violation of his constitutional rights. *Held,* that since the decision of the state court on appeal amounted to excluding the intervenor's evidence at trial, it denied him due process of law. *Saunders v. Shaw* (1917) 37 Sup. Ct. 638.

Two insurance companies being sued in Tennessee but not served, filed pleas in abatement in the Tennessee court, which, on the strength of these pleas, assumed jurisdiction over the parties and rendered judgment for the plaintiff. Suit being brought in Illinois on this judgment, the Illinois court refused to question the jurisdiction of the Tennessee courts. *Held,* that such a refusal did not amount to a denial of due process of law to the insurance companies. *Chicago Life Ins. Co. v. Cherry* (1917) 37 Sup. Ct. 492. See COMMENTS, p. 121.

CONSTITUTIONAL LAW—DUE PROCESS—EMPLOYMENT AGENCIES FORBIDDEN TO TAKE FEES FROM WORKERS.—The plaintiffs, proprietors of private employment agencies, sought to enjoin the enforcement of the Washington Employment Agency Law which forbade the collection of fees from workers for furnishing them with employment. *Held,* that the statute was an infringement of the Fourteenth Amendment. Brandeis, McKenna, Holmes, and Clarke, JJ., *dissenting. Adams v. Tanner* (1917) 37 Sup. Ct. 662.

Under the police power the states have the right to regulate any business, vocation, or occupation. *Schmidinger v. City of Chicago* (1913) 226 U. S. 578, 33 Sup. Ct. 182. They may go even farther and prohibit absolutely the maintenance of any business, where the public welfare requires its discontinuance. *Cosmopolitan Club v. Virginia* (1908) 208 U. S. 378, 28

Sup. Ct. 394. Private employment agencies are regulated by statute in at least thirteen states and such statutes have been upheld, the purpose of preventing fraud being a sufficient justification for the exercise of the police power. *Brazee v. Michigan* (1916) 241 U. S. 340, 36 Sup. Ct. 561. The Washington statute purports to regulate private employment agencies but it was alleged that its actual operation would practically prohibit them, as such agencies could scarcely exist without the privilege of collecting fees from those seeking employment. Yet, have such agencies any constitutional right to exist? There seems to have been ample evidence of such evils as would render them fit subjects for the police power; and it was primarily for the state legislature to determine how drastic a remedy was necessary. The statute is not arbitrary according to the test laid down in *Lindsley v. Natural Carbonic Co.* (1911) 220 U. S. 61, 31 Sup. Ct. 337. It is submitted that the dissenting opinion of Mr. Justice Brandeis, remarkable for its modern method of approach and comprehensive marshalling of social data, presents the better view and is more in line with the recent progressive policy of the Supreme Court, which has affirmed with but rare exception state statutes intended to advance "social justice."

S. J. T.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—ORDER OF RAILROAD COMMISSION.—The plaintiff railroad having cut down its local passenger service as a war economy measure, was, after a hearing by the State Railroad Commission, ordered to operate additional trains. It appeared that the traffic would not pay a reasonable profit over cost of operation. *Held,* that such a regulation was a violation of the due process clause of the Fourteenth Amendment to the Federal Constitution. *Mississippi R. R. Com. v. Mobile & Ohio R. R.* (1917) 37 Sup. Ct. 602. See COMMENTS, p. 121.

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — FEDERAL EMPLOYERS' LIABILITY ACT EXCLUDING STATE LEGISLATION.—The plaintiff, while in the employ of a railroad company engaged in interstate commerce, suffered personal injuries without negligence on the part of the company. The Federal Employers' Liability Act (Comp. Stat. 1916, §§8657-8665) regulated the liability of such railroad companies to their employees in cases involving negligence, but did not impose any liability in the absence of negligence. The New York Workmen's Compensation Act (N. Y. Laws 1913, ch. 816; Laws 1914, ch. 41 and 316) provided that employees might recover for injuries received in the course of their employment, without regard to the negligence of the employer. *Held,* that the plaintiff could not have the benefit of the New York act since the Federal act was exclusive. Brandeis and Clarke, JJ., *dissenting. New York Cent. R. R. Co. v. Winfield* (1917) 37 Sup. Ct. 546.

This decision reverses the holding of the New York Court of Appeals in *Winfield v. New York Cent. R. Co.* (1915) 216 N. Y. 284, 110 N. E. 614, which was adversely criticised in (1916) 25 YALE LAW JOURNAL, 497. For a discussion of a recent Supreme Court decision still further narrowing the field of state legislation of this character, see COMMENTS, next month.